

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**OLLIE GREENE, *et al.*,**

**Plaintiffs**

**v.**

**TOYOTA MOTOR CORPORATION, *et al.*,**

**Defendants.**

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§  
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§  
§  
§  
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§

**CAUSE NUMBER: 3:11-cv-0207-N**

**APPENDIX IN SUPPORT OF THE TOYOTA DEFENDANTS'  
REPLY BRIEF IN SUPPORT OF THEIR MOTION TO EXCLUDE THE TESTIMONY  
OF PLAINTIFFS' EXPERT DR. RHOADS STEPHENSON**

TO THE HONORABLE COURT:

COME NOW, Defendants Toyota Motor Corporation, Toyota Motor Engineering & Manufacturing North America, Inc., and Toyota Motor Sales, U.S.A., Inc. (collectively “the Toyota Defendants”) and would respectfully show the Court as follows:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>	<b>PAGE NUMBERS</b>
Exhibit A	Deposition of Dr. Rhoads Stephenson	App. 1-17

Respectfully submitted,

/s/ Kurt C. Kern

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**ATTORNEYS FOR DEFENDANTS  
TOYOTA MOTOR CORPORATION,  
TOYOTA MOTOR ENGINEERING &  
MANUFACTURING NORTH AMERICA,  
INC., AND TOYOTA MOTOR SALES,  
U.S.A., INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all known counsel of record in this cause in accordance with the Federal Rules of Civil Procedure on this 21<sup>st</sup> day of April, 2014.

/s/ Jude T. Hickland

**R. RHOADS STEPHENSON - 1/18/2014**

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF TEXAS  
3                   DALLAS DIVISION  
4       OLLIE GREENE,                   )  
      Individually as the            )  
5       surviving parent of           )  
      WYNDELL GREENE, SR.,         )  
6       WILLIAM GREENE, as the        )  
      representative of the         )  
      Estate of WYNDELL GREENE,     )  
      SR., and MARILYN             )  
7       BURDETTE-HARDEMAN,           )  
      Individually and as the       )  
8       surviving parent of           )  
      LAKEYSHA GREENE,             )  
9       Plaintiffs,                   )  
                                      )  
10      VS.                            ) CAUSE NO. 3-11CV-0207-N  
                                      )  
11      TOYOTA MOTOR CORPORATION,    )  
      TOYOTA MOTOR                   )  
12      MANUFACTURING NORTH          )  
      AMERICA, INC., AND TOYOTA     )  
13      MOTOR SALES USA, INC.,        )  
      VOLVO GROUP NORTH             )  
14      AMERICA, INC., VOLVO          )  
      TRUCKS NORTH AMERICA, A       )  
15      DIVISION OF VOLVO GROUP       )  
      NORTH AMERICA, INC.,          )  
16      STRICK CORPORATION, INC.,     )  
      JOHN FAYARD MOVING &          )  
17      WAREHOUSE, LLC and            )  
      DOLPHIN LINE, INC.            )  
18      Defendants.                    )  
19  
20  
21                   \*\*\*\*\*  
22                   ORAL AND VIDEOTAPED DEPOSITION OF  
23                   R. RHOADS STEPHENSON  
                  JANUARY 18, 2014  
24                   \*\*\*\*\*  
25                   ORAL AND VIDEOTAPED DEPOSITION OF R. RHOADS

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1 STEPHENSON, produced as a witness at the instance of  
2 the Defendants, and duly sworn, was taken in the  
3 above-styled and numbered cause on January 18, 2014,  
4 from 9:29 a.m. to 6:28 p.m., before Donna Wright, CSR  
5 in and for the State of Texas, reported by machine  
6 shorthand, at the law offices of BOWMAN & BROOKE,  
7 2901 Via Fortuna Drive, Suite 500, Austin, Texas,  
8 pursuant to the Federal Rules of Civil Procedure and  
9 the provisions stated on the record or attached hereto.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

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**R. RHOADS STEPHENSON - 1/18/2014**

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2 Mr. S. Todd Parks  
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6 (940) 626-8254

7 - and -

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(214) 744-3300

ALSO PRESENT:

Kristin Geoffrion - Videographer

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1 Q. (BY MR. DAWSON) In other words, if you're  
2 going to talk about the design of an ICC bumper and  
3 what constitutes a good one or a bad one, that sort of  
4 thing, then we have a lot to discuss.

5 A. I think you ought to refer -- rely on  
6 Mr. Friedman.

7 MR. PITTMAN: That's not a question.

8 THE WITNESS: Okay.

9 Q. (BY MR. DAWSON) So would you agree that  
10 Mr. Friedman is the source of those opinions more than  
11 you are, sir?

12 MR. PITTMAN: Objection, form.

13 THE WITNESS: Yeah. I -- he has more  
14 expertise than I do on those subjects.

15 Q. (BY MR. DAWSON) Did you assist Mr. Friedman  
16 in any simulations concerning running a Toyota 4Runner  
17 in the back of a Strick trailer?

18 A. No.

19 Q. You had no participation whatsoever in that;  
20 is that correct?

21 A. When you're saying simulations, you're talking  
22 about the virtual testing to --

23 Q. Yes, sir.

24 A. Yeah. No.

25 Q. Did you do any virtual testing relative to the

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1 fuel system or the cause of -- and origin of the fire?

2 A. I worked closely with him on the -- on the  
3 work that we did with the Biokinetics Corporation. We  
4 hired them to test a Toyota tank from the 2010 4Runner.  
5 There's a report in one of those boxes that covers  
6 that.

7 And -- and that one looked at leakage  
8 rates with tanks and various orientations, which are  
9 relevant to rollovers. But they also -- they also have  
10 what -- what places would leak if -- when you're on  
11 your four feet. And there are some hoses on the Toyota  
12 that will leak just when you're sitting there.

13 Q. What I'm primarily concerned with is whether  
14 or not you did any virtual crash testing even relative  
15 to the Toyota fuel system, which would implicate  
16 anything associated with its impact into the Strick  
17 trailer.

18 A. No.

19 Q. Okay. Did you assist in any way in taking  
20 measurements of the amount of deformation to the Toyota  
21 4Runner at various corners of the vehicle, side, and so  
22 forth?

23 A. No. Mr. Friedman and his measurement  
24 technician made all the physical measurements.

25 Q. Were you with him when that occurred, sir?



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1 inspection?

2 A. Mr. Friedman.

3 Q. Anybody else?

4 A. Maybe one or two of his assistants.

5 Q. Did you reach any conclusions about the Toyota  
6 vehicle at the time of that particular inspection?

7 MR. PITTMAN: Objection, form.

8 THE WITNESS: Well, I mean, I think we  
9 make conclusions every time we think about it or get  
10 some new information. I don't recall specifically what  
11 decisions were made in that precise moment.

12 Q. (BY MR. CARLSON) Did you ever inspect the  
13 Forest product Volvo tractor that was involved in the  
14 accident?

15 A. I did not inspect it, but I've seen hundreds  
16 of photographs of it.

17 Q. You never personally inspected it, right?

18 A. No.

19 Q. All right. Obviously, you never looked at the  
20 brakes, for example, on that vehicle, right?

21 A. No.

22 Q. Do you even know what type of brakes it has  
23 other than drum brakes?

24 A. I don't know the manufacturer of the brakes,  
25 but I know they're drum brakes.

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1           A.    Well, it was alternative engines and  
2           alternative fuels and alternative drive trains,  
3           hybrids --

4           Q.    Were any --

5           A.    -- electric cars, hydrogen fuel cell cars.

6           Q.    Were any prototypes ever created as a result  
7           of that project?

8           A.    Not by us, but they -- they were by some of  
9           the car companies. And -- and we recommended an  
10          expanded program of R&D, which was funded by the  
11          Department of Energy that evolved into the new  
12          generation of -- partnership for a new generation  
13          vehicle program, which developed prototypes.

14          Q.    Okay. And I'm not trying to be rude, sir, but  
15          I have limited time here, and I'm going to ask you to  
16          try to be responsive to my questions. I know there's a  
17          lot of interesting background, and I want some of it.  
18          But if you could try to limit your answer to the scope  
19          of my answer. All right?

20          A.    You asked me how I got to NHTSA. That's how.

21          Q.    Okay. During the course of your work on -- on  
22          the Ford project, was there any work done as far as  
23          crash testing, whether it be actual or simulated?

24          A.    No, we didn't do -- we wanted to make sure  
25          that we didn't do anything to adversely affect the

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1 safety of vehicles. But the focus of this was on  
2 energy efficiency, not on safety. So we did not do any  
3 virtual or actual testing of real vehicles.

4 Q. During the course of the Ford project, did you  
5 participate in the design of any liquid fuel tanks for  
6 automobiles?

7 A. No.

8 Q. Now, when you were with the NHTSA, did you  
9 have any involvement in compliance with the standards?

10 A. Well, compliance was in a different office.  
11 It's in the -- under the Office of Enforcement, which  
12 is parallel to R&D. I knew the people over there, but  
13 I was not a compliance person myself.

14 Q. You were not a compliance person yourself?

15 A. Well, that's a different -- as I said, that  
16 was a different division within the National Highway  
17 Traffic Safety Administration.

18 Q. I take it in connection with your work at the  
19 NHTSA you became familiar with and conversant with the  
20 various standards within the Federal Motor Vehicle  
21 Safety Standards; is that right?

22 A. Correct.

23 Q. All right. You're familiar with 301 and 302?

24 A. Correct.

25 Q. What is your understanding as to how a 301

R. RHOADS STEPHENSON - 1/18/2014

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1 ends were, and we tried to tailor our research to fill  
2 in the gaps that had not been previously addressed.

3 Q. Were --

4 A. And he and I worked collaboratively on this.  
5 I probably had more time than he did, so I probably did  
6 more than half of the work.

7 Q. The folks at GM you consulted with who had  
8 done their own previous studies, did that include  
9 Mr. Lang?

10 A. No, it included Jeff Santrock and a couple of  
11 other colleagues in his department. Robert Lang was  
12 our -- kind of our technical contractual point of  
13 contact at General Motors. We met with him maybe once  
14 a year.

15 Q. Okay. Now, in connection with that work, did  
16 the Motor Vehicle Fire Research Institute actually  
17 conduct any crash tests?

18 A. The Motor Vehicle Fire Research Institute was  
19 an online enterprise between Dr. Ken Digges and myself.  
20 He lives in Virginia and I live in California, and we  
21 collaborated by phone, by videoconference, and by  
22 computer. We did not have laboratories, we did not  
23 conduct tests. We found out who the best researchers  
24 in the country were and we gave them contracts to carry  
25 out laboratory tests --

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1 Q. And what --

2 A. -- and analysis.

3 Q. Excuse me. And who were these best  
4 researchers and laboratories in the country that you  
5 contracted that work out to?

6 A. We had a consulting contract with  
7 Dr. Bob Zalosh of Worcester Polytechnic Institute.  
8 He's now retired from there, but he's still working.  
9 We --

10 Q. Let me interrupt you right there. You're  
11 going to have to spell the last name.

12 A. Zalosh?

13 Q. Yeah.

14 A. Z-a-l-o-s-h, a well-known fire and explosion  
15 expert academic type guy. We talked to Lindsey -- I  
16 think his name was Lindsey Griffith at Texas. We  
17 didn't actually fund him. We did several projects with  
18 Southwest Research Institute on the fire tests on  
19 plastic fuel tanks and one metal one, on the  
20 flammability of these polymers, and on electrical fires  
21 and batteries. And there are four or five reports with  
22 Southwest Research Institute.

23 We also funded about four efforts with  
24 the biokinetics company up in Canada; Ottawa, Canada,  
25 that did the work on the fuel tank leakage rates. We

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DATE OF DEPOSITION: JANUARY 18, 2014

PAGE	LINE	CHANGE	REASON
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[illegible]

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1 I, R. RHOADS STEPHENSON, have read the foregoing  
 2 deposition and hereby affix my signature that same is  
 3 true and correct, except as noted above.

4 \_\_\_\_\_  
 R. RHOADS STEPHENSON

5  
 6 THE STATE OF \_\_\_\_\_ )  
 7 COUNTY OF \_\_\_\_\_ )

8 Before me, \_\_\_\_\_, on this day personally  
 9 appeared R. RHOADS STEPHENSON, known to me (or proved  
 10 to me under oath or through \_\_\_\_\_)  
 11 (description of identity card or other document) to be  
 12 the person whose name is subscribed to the foregoing  
 13 instrument and acknowledged to me that he executed  
 14 the same for the purposes and consideration therein  
 15 expressed.

16  
 17 Given under my hand and seal of office, this  
 18 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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 20 \_\_\_\_\_  
 NOTARY PUBLIC IN AND FOR  
 21 THE STATE OF \_\_\_\_\_

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 23 My commission expires: \_\_\_\_\_  
 24 \_\_\_\_\_ No Changes Made \_\_\_\_\_ Amendment Sheet(s) Attached  
 25 GREENE, ET AL. VS. TOYOTA MOTOR CORPORATION, ET AL

R. RHOADS STEPHENSON - 1/18/2014

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF TEXAS  
3                   DALLAS DIVISION

3   OLLIE GREENE,                   )  
4   Individually as the            )  
5   surviving parent of            )  
6   WYNDELL GREENE, SR.,         )  
7   WILLIAM GREENE, as the        )  
8   representative of the         )  
9   Estate of WYNDELL GREENE,     )  
10   SR., and MARILYN             )  
11   BURDETTE-HARDEMAN,          )  
12   Individually and as the        )  
13   surviving parent of            )  
14   LAKEYSHA GREENE,             )  
15   Plaintiffs,                    )  
16                                    )  
17   VS.                             ) CAUSE NO. 3-11CV-0207-N  
18                                    )  
19   TOYOTA MOTOR CORPORATION,    )  
20   TOYOTA MOTOR                   )  
21   MANUFACTURING NORTH         )  
22   AMERICA, INC., AND TOYOTA     )  
23   MOTOR SALES USA, INC.,        )  
24   VOLVO GROUP NORTH             )  
25   AMERICA, INC., VOLVO          )  
26   TRUCKS NORTH AMERICA, A       )  
27   DIVISION OF VOLVO GROUP       )  
28   NORTH AMERICA, INC.,         )  
29   STRICK CORPORATION, INC.,     )  
30   JOHN FAYARD MOVING &         )  
31   WAREHOUSE, LLC and            )  
32   DOLPHIN LINE, INC.,            )  
33   Defendants.                     )

1                   REPORTER'S CERTIFICATION OF THE ORAL  
2                   DEPOSITION OF R. RHOADS STEPHENSON  
3                   JANUARY 18, 2014

4                   I, Donna Wright, a Certified Shorthand  
5                   Reporter and Notary Public in and for the State of  
6                   Texas, hereby certify to the following:  
7                   That the witness, R. RHOADS STEPHENSON, was

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1     duly sworn by the officer and that the transcript of  
2     the oral deposition is a true record of the testimony  
3     given by the witness;

4             That the original deposition was delivered to  
5     MR. DONALD DAWSON.

6             That a copy of this certificate was served on  
7     all parties and/or the witness shown herein on  
8     \_\_\_\_\_.

9             I further certify that pursuant to FRCP Rule  
10    30(3) that the signature of the deponent:

11            \_\_\_\_\_ was requested by the deponent or a party  
12    before the completion of the deposition and that the  
13    signature is to be before any notary public and  
14    returned within 30 days from date of receipt of the  
15    transcript. If returned, the attached Changes and  
16    Signature Page contains any changes and the reasons  
17    therefore:

18            \_\_\_\_\_ was not requested by the deponent or a  
19    party before the completion of the deposition.

20            I further certify that I am neither counsel  
21    for, related to, nor employed by any of the parties or  
22    attorneys in the action in which this proceeding was  
23    taken, and further that I am not financially or  
24    otherwise interested in the outcome of the action.  
25

**R. RHOADS STEPHENSON - 1/18/2014**

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1                   Certified to by me on this, the \_\_\_\_\_ day of  
2                   \_\_\_\_\_, 2014.

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\_\_\_\_\_  
Donna Wright, CSR No. 1971  
Expiration Date: 12-31-2015  
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Firm Registration No. 191  
4144 N. Central Expwy., #850  
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1 COUNTY OF TRAVIS )

2 STATE OF TEXAS )

3 I hereby certify that the witness was notified  
4 on \_\_\_\_\_ that the witness has 30 days or  
5 (\_\_\_\_\_ days per agreement of counsel) after being  
6 notified by the officer that the transcript is  
7 available for review by the witness and if there are  
8 changes in the form or substance to be made, then the  
9 witness shall sign a statement reciting such changes  
10 and the reasons given by the witness for making them;

11 That the witness' signature was/was not returned as  
12 of \_\_\_\_\_.

13 Subscribed and sworn to on this, the \_\_\_\_\_ day  
14 of \_\_\_\_\_, 2014.

15 \_\_\_\_\_  
16 Donna Wright, Texas CSR No. 1971

17 Expiration Date: 12-31-2015

18 MERRILL LEGAL SOLUTIONS

19 Firm Registration No. 191

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APP 17